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FACSIMILE TRANSMITTAL SHEET

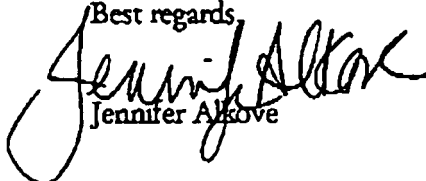
| | |
|---|---------------------------------------|
| TO: Refund Branch | FROM: Jennifer Alkove |
| COMPANY: USPTO - Deposit Accounts | DATE: 1/23/2009 |
| FAX NUMBER: 571-273-6500 | TOTAL NO. OF PAGES INCLUDING COVER: 4 |
| PHONE NUMBER: | SENDER'S REFERENCE NUMBER: 50-1732 |
| RE: Erroneous charge to Deposit Account | YOUR REFERENCE NUMBER: 50-1732 |

☐ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ ORIGINAL TO FOLLOW

NOTES/COMMENTS:

Please find attached a copy of our deposit account statement for December, 2008. The charge for serial number 09/750,766 (\$540.00) was charged in error. This is the second Notice of Appeal filed in this application; thus only the increase in fees of \$40.00 is due at this time. The supporting statement filed with the Notice of Appeal is attached.

Please refund our deposit account for \$540.00 and charge \$40.00. If you have any questions, please contact me.

Best regards,

Jennifer Alkove

NOTE: The information contained in this transmission is privileged and confidential and intended ONLY for the individual or entity named above. If you should receive this transmission in error, please notify our office and return to the below address via the U.S. Postal Service.

100 REGENCY FOREST DRIVE, SUITE 160**CARY, NC 27518****PH: (919) 238-2300****FAX: (919) 238-2301**



United States
Patent and
Trademark Office

**Deposit Account Statement**

Requested Statement Month: December 2008
 Deposit Account Number: 601732
 Name: WITHROW & TERRANOVA PLLC
 Attention:
 Street Address 1: P O BOX 1287
 Street Address 2:
 City: CARY
 State: NC
 Zip: 27512
 Country: UNITED STATES

| DATE | SEQ | POSTING REF TXT | ATTORNEY DOCKET NBR | FEE CODE | AMT | BAL |
|-------|------|--------------------|---------------------------|---------------------|----------------|------------|
| 12/18 | 1 | 09750768 | 7000-528 | 1401 | \$540.00 | \$583.00 |
| 12/23 | 6476 | E-REPLENISHMENT | | 9203 | -\$1,000.00 | \$1,583.00 |
| 12/23 | 6504 | 10742196 | 7000-303 | 1801 | \$810.00 | \$773.00 |
| 12/31 | 155 | SERVICE CHARGE | | 9202 | \$25.00 | \$748.00 |
| | | START BALANCE | SUM OF CHARGES | SUM OF REPLENISH | END BALANCE | |
| | | \$1,123.00 | \$1,375.00 | \$1,000.00 | \$748.00 | |

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Brian B. Egan

Serial No. 09/750,766

Filed: 12/28/2000

Examiner: Clemence S. Han

Art Unit: 2616

**For: VOICE OPTIMIZATION IN A NETWORK HAVING VOICE OVER INTERNET
PROTOCOL COMMUNICATION DEVICES**

Mail Stop Appeals

Commissioner for Patents

PO Box 1450

Alexandria, VA 22313-1450

Sir:

STATEMENT FOR DISCOUNTED NOTICE OF APPEAL

A Notice of Appeal is being filed concurrently with this statement. Appellant previously filed a Notice of Appeal on November 10, 2005 and an Appeal Brief on December 23, 2005. Appellant paid the \$500.00 fee associated with the Notice of Appeal and the Appeal Brief when each was filed.

In response to the Appeal Brief filed on December 23, 2005, prosecution was reopened through the mailing of a non-final Office Action on February 27, 2006. Appellant filed a response on May 23, 2006. A Final Office Action was mailed on August 25, 2006 and remailed on February 28, 2007, since the Final Office Action mailed August 25, 2006 was sent to the wrong attorney and neither Appellant nor Appellant's current representative received the Final Office Action. In response to the Final Office Action mailed February 28, 2007, Appellant filed a response on April 30, 2007. Appellant then filed a second Notice of Appeal on August 28, 2007. In light of an Advisory Action mailed August 30, 2007, after Appellant had filed the Notice of Appeal, Appellant decided to reopen prosecution and submitted a response to the Advisory Action with a Request for Continued Examination on November 28, 2007. A non-final Office Action was mailed on March 19, 2008 to which Appellant responded on June 12, 2008. A Final Office Action was issued on October 6, 2008 to which Appellant currently responds by filing a third Notice of Appeal. As such, the Appeal Brief filed on December 23, 2005 was not reviewed by the Board of Patent Appeals and Interferences and no decision was rendered in response to the Appeal Brief. Appellant has continued prosecution and concurrently files a new Notice of Appeal.

Appellant should not have to pay the full amount of \$540.00 for this Notice of Appeal because the Notice of Appeal filed on November 10, 2005, the Appeal Brief filed on December 23, 2005, and the Notice of Appeal filed on August 28, 2007 had been paid for and no decision had been rendered. See M.P.E.P § 1207.04. Appellant notes that the fee for a Notice of Appeal increased by \$40.00. As such, only the \$40.00 fee is due for the current Notice of Appeal. The Director is hereby authorized to charge the \$40.00 Notice of Appeal fee to Deposit Account 50-1732, and to consider this a petition therefor. If any additional fees are required in association with this Notice of Appeal, the Director is hereby authorized to charge them to Deposit Account 50-1732, and consider this a petition therefor.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

John R. Witcher, III

John R. Witcher, III
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Date: December 15, 2008
Attorney Docket: 7000-526

Document code: WFEE

United States Patent and Trademark Office
Sales Receipt for Accounting Date: 12/18/2008

VWILLIAM SALE #00000001 Mailroom Dt: 12/15/2008 501732 09750766
01 FC:1401 540.00 DA

Adjustment date: 01/28/2009 SDIRETA1
12/18/2008 VWILLIAM 00000001 501732 09750766
01 FC:1401 540.00 CR

**NOTICE OF APPEAL FROM THE EXAMINER TO
THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Docket Number (Optional)

7000-526

I hereby certify that this correspondence is being transmitted via
facsimile on the date indicated below to:

Examiner: _____

Fax Number: _____ Art Unit: _____

Date: _____

Signature _____

Typed or printed
name _____In re Application of
Brian B. Egan et al.Application Number
09/750,766Filed
12/28/2000For VOICE OPTIMIZATION IN A NETWORK HAVING VOICE OVER INTERNET PROTOCOL
COMMUNICATION DEVICESArt Unit
2616Examiner
Clemence S. Han

Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.

The fee for this Notice of Appeal is (37 CFR 1.17(b))

\$ 40.00

- ☐ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is: \$ _____
- ☐ A check in the amount of the fee is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director has already been authorized to charge fees in this application to a Deposit Account. I have enclosed a duplicate copy of this sheet.
- ☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 50-1732. I have enclosed a duplicate copy of this sheet.
- ☐ A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ attorney or agent of record.
Registration number 39,877
- ☐ attorney or agent acting under 37 CFR 1.34(a).
Registration number if acting under 37 CFR 1.34(a) _____

John R. Witcher, III
Signature

John R. Witcher, III
Typed or printed name

919-238-2300
Telephone number

December 15, 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.191. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment date: 01/28/2009 SDIRETA1
11715/2005 DTESEH1 00000046 09750766
01 FC:1401 -500.00 DP

01/28/2009 SDIRETA1 00000004 501732 09750766
01 FC:1401 40.00 DA 500.00 DP